

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

TIMOTHY STICKNEY,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-13-484-D
)	
QWEST CORPORATION,)	
)	
Defendant.)	

REPORT AND RECOMMENDATION

Plaintiff, appearing pro se, has filed a motion for leave to proceed *in forma pauperis* and supporting affidavit, in conformance with 28 U.S.C. § 1915. Pursuant to an order entered by United States District Judge Timothy D. DeGiusti, this matter has been referred to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. § 636(b)(1)(B). Having reviewed said motion, the undersigned finds that Plaintiff has sufficient funds to prepay the filing fee of \$400.00. Because he does not qualify for authorization to proceed without prepayment of the filing fee, it is recommended that Plaintiff's motions, **ECF Nos. 2 and 4**, be **DENIED** and that he be ordered to pay the full \$400.00 filing fee for this action to proceed. 28 U.S.C. § 1915(a)(1). *Lister v. Department of the Treasury*, 408 F.3d 1309, 1312 (10th Cir. 2005) (magistrate judge should issue a report and recommendation when denying motion to proceed *in forma pauperis*). On May 24, 2013 this Court entered an order, ECF No. 3, requiring the Plaintiff to provide more detail on his source of income. The Plaintiff filed an Amended Motion, ECF No. 4, on May 31, 2013. Although the amended motion

doesn't directly address the deficiencies detailed in the Court's order, Plaintiff does more specifically detail his total income. The Plaintiff indicates he has \$700.00 in cash, he is employed earning \$4,200.00 in gross monthly income and his wife works temporary employment earning approximately \$900.00 in gross monthly income. His detailed monthly expenses total \$1,400.00. He does list additional debt in the application, however he does not detail those monthly payments.

It is recommended that this action be dismissed without prejudice to refiling unless Plaintiff pays the \$400.00 filing fee in full to the Clerk of the Court within twenty (20) days of any order adopting this Report and Recommendation.

Plaintiff is advised that he may file an objection to this Report and Recommendation with the Clerk of this Court by **July 16, 2013**. Plaintiff is further advised that failure to timely object to this Report and Recommendation waives the right to appellate review of both factual and legal issues contained herein. *Moore v. United States*, 950 F. 2d 656 (10th Cir. 1991).

This report and recommendation terminates the referral to the undersigned Magistrate Judge unless and until the matter is re-referred.

ENTERED on June 26, 2013.



SHON T. ERWIN
UNITED STATES MAGISTRATE JUDGE